

DOCKET FILE COPY ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 19 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Administration of the North American Numbering Plan) CC Docket No. 92-237
Carrier Identification Codes (CICs))

COMMENTS

Sprint Communications Company, L.P. hereby respectfully submits its comments on the Petitions for Reconsideration filed by Comptel, Telco Communications Group, Inc. ("Telco") and Vartec Telecom, Inc., of the Commission's *Second Report and Order* released April 11, 1997 (FCC 97-125) in the above-captioned proceeding.

In the *Second Report and Order*, the Commission adopted a plan to transition from 3-digit to 4-digit carrier identification codes ("CICs"), and from 5-digit to 7-digit carrier access codes ("CACs"). Under this plan, carriers and end users must convert to 4-digit CICs and 7-digit CACs by January 1, 1998. The expansion to 4-digit CICs and 7-digit CACs was necessary because the supply of 3-digit CICs has been fully assigned, and demand is expected to accelerate with the entry of new service providers into markets opened by the 1996 Telecommunications Act. The transition plan adopted in the *Second Report and Order* was considerably shorter than the six-year transition plan originally proposed in the 1994 NPRM in this proceeding.

The three Petitioners each request reconsideration of the January 1, 1998 deadline for converting to 4-digit CICs and 7-digit CACs. Telco requests that the transition period be extended for 1 year (until January 1, 1999); Comptel requests a 2 year extension (until January 1, 2000); and Vartec requests permanent permissive dialing, under which existing 3-digit CICs

Not for Copied/modified
for ARJ/DE

047

and 5-digit CACs (except 101XX) are grandfathered and exempt from conversion. These three parties assert that the scheduled expiration of the permissive dialing period does not provide sufficient time for IXC's to educate consumers on the new dialing plans, for end users to modify their equipment (e.g., PBXs and autodialers) to accommodate 7-digit CACs, or for IXC's to coordinate the conversion with incumbent LECs. They also assert that the existing transition will severely disrupt the operations of dial-around service providers who have invested considerable sums in advertising and in network configurations centered around 3-digit CICs and 5-digit CACs.¹

Sprint agrees that the scheduled 1/1/98 date represents an aggressive transition plan, and that a moderate extension of the transition period is warranted. Sprint believes that a 6-month extension would give IXC's sufficient additional time to manage the conversion to 4-digit CICs and 7-digit CACs. Because of concerns about competitive neutrality, Sprint opposes a longer transition period and the grandfathering of existing 3-digit CICs and 5-digit CACs.

Comptel asserts (p. 6) that "numerous ILECs, especially small ILECs in rural or suburban areas, have not reprogrammed or upgraded their equipment in order to accept seven digit CACs," and that until that equipment has been upgraded, IXC's cannot prudently convert their end users to a 7-digit dialing plan. Sprint believes that this is a legitimate concern. In order to avoid an unacceptable level of blocked calls and to avoid customer confusion, a reasonable delay in the conversion to 4-digit CICs and 7-digit CACs is warranted. Sprint recommends that LECs be required to have in place all the necessary systems for handling 4-digit CICs and 7-digit CACs by January 1, 1998, and that IXC's be given an additional 6 months, until June 30, 1998,

¹ See Comptel, p. 7; Telco, p. 2; and Vartec, p. 6.

to coordinate any changes with the ILECs and to assist end users in making any equipment changes necessary to accommodate 7-digit CACs. IXC's should of course continue to work with and educate their end users about the conversion between now and June 30, 1998.² Sprint recognizes that during the extended transition period, carriers with 3-digit CICs may have an advantage over carriers with 4-digit CICs, whose end users must dial 2 extra digits to reach them on a dial-around (*i.e.*, non-presubscribed) basis. However, the effects of this competitive imbalance would be short-term (6 months), and would seem to be outweighed by the benefit to the thousands of customers who need additional time to reprogram their equipment and who need to be educated about the new dial-around dialing sequence. Of course, over time, an increasing number of entities will be assigned 4-digit CICs, and the impact of any competitive imbalance due to dialing disparities would be magnified accordingly. Therefore, the Commission should be extremely cautious about extending the permissive dialing period beyond the 6 months recommended by Sprint.

Because of the competitive disadvantages associated with dialing disparities, the Commission should reject Vartec's recommendation (p. 3) that both 5 and 7-digit CACs (with the exception of 101XX codes) be allowed to coexist permanently. Vartec itself states (p. 7) that "[t]he public will perceive seven-digit CACs [which would be used by any carrier not grandfathered under Vartec's plan] as too cumbersome...." Although the Commission concluded that dialing disparities under the transition plan do not violate Sections 201(a) or (b) (*Second Report and Order*, para. 32), it "reserve[d] the right to address discrimination under

²If ILECs are required to modify their switches by 1/1/98, IXC's will have sufficient time to field test the ILEC switches by 6/30/98. Therefore, IXC's can be reasonably confident that calls will successfully be completed if end users are told to dial a 7-digit CAC as of 6/30/98.

those sections of the Act under other circumstances” (*id.*, para. 34), including, presumably, a permanent dialing disparity.

The Commission should also reject Vartec’s argument that existing 5-digit CACs be grandfathered because their elimination will put Vartec out of business (p. 6). Vartec acknowledges (pp. 5-6) that “[a]ll interexchange carriers can compete to become a subscriber’s primary interexchange carrier,” however, it complains (p. 6) that eliminating 5-digit CACs will “expose[] Vartec to large IXC’s predatory marketing techniques.” However, the practices about which Vartec complains – larger IXC’s targeting the smaller IXC’s customers and enticing those customers to switch to the larger IXC – are the legitimate and desirable (at least from a public policy standpoint) actions of carriers in a competitive marketplace. Vartec does not adequately explain what structural barriers would prevent it (or any other dial-around carrier) from competing for 1+ traffic, or why it could not successfully re-educate its customers to dial a 7 rather than a 5-digit CAC should it choose to continue to offer service on a dial-around basis. The public interest requires that the Commission promote competition, not ensure the viability of a specific competitor, and any recommendation which seeks to institutionalize an existing carrier’s regulation-based advantage to the detriment of its competitors should be rejected.

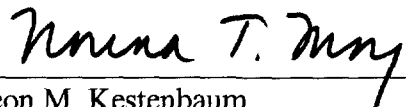
Finally, the Commission should reject Vartec’s argument that elimination of existing 5-digit CACs is an unconstitutional taking of Vartec’s private property (p. 10), namely, the goodwill and service mark rights Vartec has invested in its 5-digit CACs. It is well established that NANP codes are a public resource, and that use of such codes do not confer ownership.³

³ See, e.g., *Administration of the North American Numbering Plan*, 11 FCC Rcd 2588, 2591 (para. 4); see also, *Industry Guidelines for 800 Number Administration*, Section 2.2.1.

Therefore, a company which chooses to heavily advertise a dialing sequence (which, at least in the example cited by Vartec, does not appear to be verbally significant) does not, as Vartec claims (p. 14), "acquire[] a property interest in its CACs."

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY, L.P.

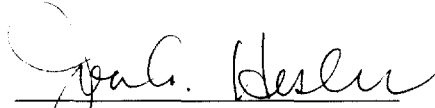


Leon M. Kestenbaum
Norina T. Moy
1850 M St., N.W., Suite 1110
Washington, D.C. 20036
(202) 857-1030

June 19, 1997

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Communications Co LP was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 19th day of June, 1997 to the below-listed parties:


Joan A. Hesler

Regina Keeney, Chief
Common Carrier Bureau
Room 500
Federal Communications Comm.
1919 M Street, N.W.
Washington, D.C. 20554

Genevieve Morelli
CompTel
1900 M Street, N.W.
Suite 800
Washington, D.C. 20554

International Transcription Svc.
1919 M Street, N.W.
Washington, D.C. 20554

Geraldine Matisse
Federal Communications Comm.
Room 235
2025 M Street, N.W.
Washington, D.C. 20554

Colleen Boothby
Thomas Lynch
Levine, Blaszak, Block &
Washington, D.C. 20036
Counsel for Telco

James Troup
Arter & Hadden
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006
Counsel for Vartec Telecom, Inc.